## REMARKS

Claims 7-15, 32, 34-37 and 41 were examined. Claims 13, 32, and 41 have been amended. Claims 14-15 have been cancelled. No new matter has been introduced.

**Rejections under 35 USC §112**

Claims 13-15 and 41 are rejected under §112, second paragraph, for filing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 has been amended to remove the comparison to "known devices", claims 14-15 have been canceled.

The final limitation of claim 41 has been amended to state that "at least one roller ... to rotate the cartridge, punch open a new cavity and load a new penetrating member", indicating that the at least one roller is used to punch open the cavity and load the new penetrating member for firing.

**Rejections under 35 USC §103**

Claims 7-12 and 32 stand rejected under §103(a) as obvious over Simons et al (US 5971941) in view of Lum et al (US 2002/0042594).

**The prior art**

As the Examiner pointed out, Simons did not disclose a processor used for controlling the penetrating member driver to move a penetrating member at velocities which conform with a selectable velocity profile.

Lum does not disclose a processor used to control and move a penetrating member along a desired velocity profile either. Lum discloses "an apparatus having a shaft that can sense the depth of penetration, for penetrating into an object (the substrate). The substrate being penetrated has impedance that varies according to the depth under a surface of the substrate... A change of impedance of material of the object between the conductive ends can be sensed to provide information on the depth of penetration. A processor can be provided external to the object being penetrated by the shaft to gather and process the impedance information to determine whether the

desired depth has been achieved" (Abstract). "The driver 106 is controlled by a processor 108, which stops the driver when the impedance sensor 104 senses an impedance change indicating the desired penetration has been achieved" ([0023]). Thus, Lum discloses a depth sensor that measures the **depth** of penetration by a penetrating member based on impedance information (emphasis added). There is no teaching in Lum, however, of a processor used to control the penetrating member driver to move a penetrating member at **velocities** which conform with a selectable **velocity** profile (emphasis added).

**The prior art distinguished**

Independent claim 7 includes the language of:

a processor for controlling said penetrating member driver to move at least one of said penetrating members at velocities which conform with a selectable velocity profile.

Independent claim 32 has been amended to include the language of:

a penetrating member driver for moving an active one of said penetrating members from a first position outward to penetrate tissue at velocities which conform with a selectable velocity profile;

As discussed above, neither Simons nor Lum discloses a processor used for controlling the penetrating member driver to move a penetrating member at velocities which conform with a selectable velocity profile. Thus, Simons or Lum alone or in combination cannot render independent claims 7 and 32 obvious. Since claims 8-12 depend on claim 7, they are also allowable at least for depending from an allowable base claim. The Applicant respectfully requests all rejections with respect to these claims be withdrawn.

**Allowable subject matter**

Applicant thanks the examiner for the indication that claims 34-37 are allowed.

## CONCLUSION

Applicant believes that the application is now in condition for allowance and respectfully requests the same. The Commissioner is authorized to charge any additional fees or credit any fees in connection with this paper to Deposit Account 50-4634 (PEL 2804).

Respectfully submitted,
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